

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

BIOVAIL LABORATORIES INTERNATIONAL SRL,)
a corporation of Barbados,)
Plaintiff,) C.A. No. 05-586 (GMS)
v.) C.A. No. 05-730 (GMS)
ANDRX PHARMACEUTICALS, LLC and) C.A. No. 06-620 (GMS)
ANDRX CORPORATION,) (CONSOLIDATED)
Defendants.)

STIPULATION

WHEREAS, both Plaintiff Biovail Laboratories International SRL ("Biovail") and Defendants Andrx Pharmaceuticals, LLC and Andrx Corporation (collectively "Andrx") identified third party witnesses Dr. Edith Mathiowitz and Ms. Robin Teskin as witnesses they intended to call live at trial;

WHEREAS, both Dr. Mathiowitz and Ms. Teskin were willing to voluntarily appear and testify at trial; and

WHEREAS, both Biovail and Andrx wish to cooperate in the most efficient use of the available trial time and in minimizing any burden on third parties;

IT IS HEREBY STIPULATED THAT:

(1) Biovail and Andrx agree not to call third party witnesses Mathiowitz or Teskin for live testimony in their case-in-chief or rebuttal, although both are free to rely on the deposition testimony of these witnesses already designated or counter-designated in the Pretrial Order.

(2) Biovail and Andrx further agree that they will not assert that there is any sort of "adverse inference" that should or could be drawn from this agreement by the parties not to call either of these third party witnesses to testify in person at trial.

(3) Nothing in this agreement is intended to impinge upon any party's right to argue that the deposition testimony offered fails to meet another party's burden of proof, or to otherwise challenge the legal sufficiency of that deposition testimony submitted.

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